

MINUTES OF THE
JOINT HEALTH AND HUMAN SERVICES APPROPRIATION SUBCOMMITTEE
Thursday, January 19, 2006, 2:00 p.m.
Room W125, West Office Building, State Capitol Complex

Members Present: Sen. Sheldon L. Killpack, Committee Co-Chair
Rep. Merlynn T. Newbold, Committee Co-Chair
Sen. Allen M. Christensen
Sen. Gene Davis
Rep. Bradley G. Last
Rep. David Litvack
Rep. Steven R. Mascaro
Rep. Roz McGee
Rep. Paul Ray

Members Excused: Sen. Chris Buttars

Members Absent: Rep. Aaron Tilton

Staff Present: Debbie Headden, Legislative Fiscal Analyst
Norda Shepard, Committee Secretary

Public Speakers Present: Rep. Rhonda Menlove
Lisa-Michele Church, Executive Director, Department of Human Services
George Kelner, Director, Division of Services for People with Disabilities
Mark Payne, Director, Division of Substance Abuse and Mental Health
Brent Kelsey, Associate Director, Division of Substance Abuse and Mental Health

A list of visitors and a copy of handouts are filed with the committee minutes.

Co-Chair Killpack called the meeting to order at 2:25 p.m. and welcomed those in attendance.

Fiscal Analyst Debbie Headden distributed a list of acronyms and definitions for the Department of Human Services for the information of subcommittee members. She gave a brief explanation of how the Budget Analysis binders are organized to make it easier to follow when budget and issue briefs are discussed.

1. Department of Human Services - Division of Services for People with Disabilities

Lisa-Michele Church, Executive Director, Department of Human Services, thanked the subcommittee for approving the base budget. She said that the Department's building block requests total about \$13 million. She repeated that she will not come to the committee asking for programs unless they are driven by objective measurements. She asked committee members to measure the presentations they hear today and Monday by objective things and what is driving the increased costs. She gave as examples population growth, federal cuts that were discussed Wednesday, and rising fuel and utility costs.

George Kelner, Director, Division of Services for People with Disabilities, distributed and discussed a report from the Division. He indicated that Ms. Church holds the Department to high standards and expects outcomes and accomplishments. He said he wanted to discuss some of the accomplishments of the Division over the past year, give an overview of the kinds and scope of services provided by the Division, and talk about some of the challenges faced by the Division.

He indicated that 249 people were brought into service from the waiting list. The chart in the handout indicated the kinds of services these people are receiving. He reported that last year \$1million from state General Fund was

appropriated for the waiting list with the projection that 235 would be served. The Division was able to do better with

the 249 people. He stated the Division met the basic health and safety and service needs for 4,233 Utah citizens with substantial functional limitations due to mental retardation, brain injury and physical disabilities. He said they have tried to maximize resources by getting people to participate in the Medicaid program to draw down matching funds.

In response to committee questions, Mr. Kelner explained the need to have the federal Medicaid dollars to maximize programs and this will be less with the new federal program. Sen. Davis stated that the state, the federal government and the tax payers are all partners and we need to let our congressmen and senators know that this is not the way to balance a budget. Rep. Mascaro stated that people who have needs will not go away with the declining funding and will end up in ER's, other charitable care or in the justice system. He said care should be provided in a more cost effective manner.

Mr. Kelner stated that other Division accomplishments were bulleted on the handout. He discussed the Division's response to Intent Language requiring the Division to report concerning the provider use of the 2005 cost of living increase. He explained that 83 percent of this increase was used for wage or benefit increases and 17 percent to offset increases in worker's compensation, fuel costs, liability insurance or to hire new positions. Sen. Killpack indicated that there will be a change in hearing from providers this year. Normally they testified during public hearings portions. The providers will be testifying Monday.

He discussed the challenges which are bulleted in the handout. He said the biggest challenge is the change in the federal match rate, which is definitely not in the Division's favor. Other challenges discussed were the waiting list, prescription drug costs, and nursing shortages at the Developmental Center. He said the Division is requesting that \$100,000 from the interest of the Trust Fund for People with Disabilities be appropriated to be used by the Division consumers.

Rep. Litvack congratulated the Division on investigating creative solutions to the waiting list and said he was curious why more of this is not being done. He mentioned Rep. Rhonda Menlove's proposal in H.B. 31, "Pilot Program for the Provision of Services for People with Disabilities," but said we need larger measures. Ms. Church said that in the summer interim committee she presented at least six different alternatives, one of which was the support of employment prospect that Rep. Menlove is carrying. She said only Rep. Litvack and Sen. Menlove responded.

Rep. Menlove said she has a great passion for people with disabilities. She said she has heard people talking about the waiting list even before she came to the Legislature. She said she felt that maybe the waiting list should be looked at in a different way. This pilot project, with a small amount of funding, targets people on that list who could be employed with some training and a job coach. This would enable these people to make money, pay taxes, and be away from the home during they day like other adults going to a job. This would be a very positive situation. She said that for around \$1500 a year a job coach could be provided for a person to go into a work setting. The job coach would assist until the person was trained enough to handle the job on their own. Business also would get a tax incentive. The pilot program will go for two years.

2. Issue Brief - DSPD Waiting List

Ms. Headden said that the DSPD currently has a waiting list of a little over 1700 people who are currently not receiving any services. The total funding to eliminate that list would be \$23.3 million, with \$8.3 million coming from General Fund. This is significant. This year the Division is requesting 20 percent of the funding to address 285 individuals. She explained that people must have substantial functional limitations in three or more of life activities: self care, receptive and expressive language, learning, mobility, self direction, capacity for independent living and economic self-sufficiency. Services provided range from full service in the Community or Developmental Centers, in private or intermediate care facilities, as well as Home and Community Based Services. She discussed a history on funding which is shown on the chart in the Issue Brief.

In December 2002, the Disability Law Center, on behalf of ARC of Utah and individuals who have been waiting for community services, filed a class-action lawsuit, claiming that having people on the waiting list was in violation of the medicaid law and the "Americans with Disabilities Act." The suit did not include a specific demand for money but

did want a plan created on how to provide services to all eligible individuals. On August 26, 2003, the U.S. District Court dismissed the Medicaid claims. The "Americans with Disabilities" part is still progressing and a trial date has been set for Monday, January 23, 2006.

The Analyst recommends an appropriation of \$4,702,100 with \$1,620,900 from General Funds and \$3,081,200 from federal Medicaid funds for FY 2007 to address 20 percent of the waiting list, which would be about 285 individuals.

3. Issue Brief - Additional Waiver Services

Ms. Headden said that DSPD has three waiver program known as the Home and Community Based Service Waiver. Waiver programs are exceptions to the Medicaid plan which states can opt for to provide services that are less expensive or cost neutral. Once an individual is accepted into the waiver program, DSPD is required to provide additional services as needed. If the Division cannot meet these needs, it could result in a loss of federal funds in the amount of \$76 million. This waiver program provides over 100 services that allow individual to remain in less restrictive environments such as individual homes, group homes or assisted living apartments. The Analyst is recommending an appropriation of \$1,911,300, with \$599,800 General Funds and \$1,311,500 from federal Medicaid funds for FY 2007 for DSPD for additional waiver services.

4. Issue Brief - Waiting List Pilot

Mr. Headden said that often times the individual waiting for immediate services is based on a triage type list where the most critical are served first. At the bottom end of the list are those individuals who with limited services, like self-employment, could be removed from the list and could move into the work force and have a somewhat independent life. The proposed pilot plan is to provide job coaching and supportive employment to about 100 individuals. Those in the program would not qualify for the Medicaid waiver and would not have Federal Funding. The goal of this program is to provide services to the individuals at the bottom of the list and to be proactive instead of reactive and help these individuals before them become critical. It is a two year pilot based on H.B. 31. The bill does not carry an appropriation, but the agency is requesting, and the Analyst is recommending, one-time funding of \$150,000 for FY 2007.

5. Issue Brief - Nursing Recruitment & Retention

Ms. Headden explained that the residents at the Utah State Developmental Center (USDC) have multiple medical diagnoses which often require drug intervention. More than half of the population have a dual diagnoses of mental illness and mental retardation, with about half with epilepsy. These residents require round the clock nursing care and medication. The USDC has experienced a difficult time in recruiting and retaining nurses. She indicated there are four factors that contribute to this problem: (1) the nursing shortage, both nationally and in Utah; (2) many nurses are approaching retirement age as many retire at an early age due to the physical demands of the work; (3), USDC has experienced a high turnover rate because of the difficult working conditions; and (4) USDC is unable to be competitive in recruiting nurses because of the salary scale and shortage of nurses in the state. The Analyst is recommending that the subcommittee may want to consider prioritizing the USDC's request for FY 2007 of \$168,100 with \$47,600 in General Funds and \$120,500 from federal Medicaid funds for the recruitment and retention of nurses.

6. Issue Brief - Medication Costs

Ms. Headden said the USDC has experienced increased costs associated with medications. Most of their patient are on drug therapy or management for their medical conditions. Some of the patients require the new, more expensive medications available, as the older drugs have been less effective. The USDC has tried to use generic drugs whenever possible to try to manage their resources to the best of their ability. The Analyst recommends that the Subcommittee may want to prioritize this request for funding of \$114,000 with \$32,300 from General Funds and \$81,700 from Medicaid funds.

7. Department of Human Services - Division of Substance Abuse and Mental Health

Mark Payne, Director, Division of Substance Abuse and Mental Health, stated he has been the director of this Division for the last six months and is very excited about the work. The Division distributed a FY 2005 Fact Sheet and a handout on Substance Abuse Building Block Requests. He said he wanted to mention initiatives the Division has going. One is to strengthen the Division's partnership between consumers and families and between state and local entities. The second is to supply quality programs that focus on recovery efforts. He said they also want to enhance education to have people better understand substance abuse and mental health issues. Lastly, he said the Division needs to be accountable for every dollar appropriated. He said their overall theme is hope and recovery. He indicated that the annual report had been mailed to committee members. He introduced Brent Kelsey, Deputy Director over Substance Abuse and indicated that Deputy Director, Ron Stromberg, is over Mental Health.

Mr. Kelsey stated there were two building block requests he would like to discuss. The first is funding for year two and three of the Drug Offender Reform Act (DORA) Pilot and the expansion of the Drug Court program. DORA was passed last year during the first special session of the 2005 Legislature. The purpose of this legislation was to examine the impact of providing substance abuse screening, assessment and treatment services to felony offenders. The bill implemented a three year pilot program and appropriated one-time money to get the process started. This year the Division is asking for \$646,400 to fund the drug treatment, case management and drug testing for this pilot study for years two and three. He reported that the program is growing. As of December 2005, 28 people had been ordered to participate in the DORA Pilot and 9 people are pending participation.

Mr. Kelsey said the Division is planning for growth in the number of participants in Drug Courts. Overall participation has led to a need for additional funding for these programs. Currently, the Division funds Drug Courts with money appropriated from the Tobacco Settlement Account. The money at the present time reaches only 16 of the 32 existing courts in Utah. Without funding those courts are unable to provide the adequate treatment, case management and drug testing services that the model requires. They are doing a good job out of existing budgets and are seeing some success, but they really need new money. He reported that participation in the Drug Courts is growing and has increased 56 percent since 2001.

Mr. Payne discussed the Mental Health building blocks shown on the handout. He said the determination in FY 2004 that Medicaid dollars could not be used to serve non-Medicaid eligible individuals was a big issue for the system, with about 4,500 people being served with those dollars that were taken out of service. The Division is requesting ongoing funding of \$2 million to keep 30 percent of the clients back in service who previously lost services. The Division is requesting funding for an additional adult 30 bed unit at Utah State Hospital. There are not enough psychiatric beds in the state of Utah. If beds are not available, these people end up in ER's or jails. He indicated that the State Hospital, like the Developmental Center, is also experiencing nursing retention problems and increased medication and utility costs and these need to be addressed.

8. Issue Brief - Drug Offenders Reform Act

Ms. Headden said that during the 1st Special Session of 2005 S.B. 1004, "Drug Offender Reform Act - Pilot Program" was passed. This was for a three year program called DORA in Salt Lake County for convicted felony drug offenders. The total cost of the pilot program is \$1,417,400. In FY 2006, the Legislature appropriated \$500,000, distributed to four entities. For the upcoming year, they are requesting the remaining balance of \$917,400 to go to these four entities. This would be one time General Fund for years two and three of the three year program. It is the recommendation of the Analyst that there be a one time appropriation of \$647,00 and that the Department be granted non-lapsing authority for FY 2007 to cover the expenditures of the third year of this pilot. Ms. Headden reported that in addition to the bill there was to be an annual report which is included under Tab 30 of the Budget Analysis binder.

9. Issue Brief - Drug Court Expansion

Ms. Headden explained the Drug Courts are a judicial process of offering nonviolent drug offenders intensive drug treatment with court supervision as an alternative to jail or prison. Participants enter a plea of abeyance with charges dismissed upon successful completion of the drug treatment. If they don't complete the treatment, they go straight to jail. Initially in Utah, Drug Courts were started with federal grants and local government grants, but as substance

abuse grew and the need for more drug courts grew, the Drug Courts have had to use other sources of revenue. They receive funds from the Federal Substance Abuse Prevention and Treatment (SAPT) grant, money from the community and also use funds from the General Fund Restricted Tobacco Settlement funds. There are currently 32 Drug Courts operating in the state serving over 3000 people. She stated that between 80 to 85 percent of Utah prison inmates have a substance abuse problem. The most significant increase in drug abuse is in women and approximately 80 percent of all children in foster care are because one or both parents have an addiction. When talking about the effects of Drug Courts, it includes foster care, prisons and all related expenses.

Mr. Kelsey explained that generally there are about 6,000 inmates incarcerated in the state of Utah. Female inmates are growing faster than the men. There is treatment for substance abuse at the prison but with only about 300 slots for a population that is 85 percent in need.

Ms. Headden stated that the cost of substance abuse treatment is between \$3,500 and \$4,200 per individual. In contrast, the cost of incarceration is \$26,000 per prisoner annually. The cost of foster care per child is \$35,200 annually. Therefore, if you have a woman who has a substance abuse problem and her children need foster care, it crosses a lot of boundaries. She indicated that Drug Courts are successful in reducing recidivism and those additional costs to the state.

The Analyst recommends that Drug Courts receive an appropriation of \$1,700,000 from General Fund for FY 2007 with \$1,479,000 going to the Department of Human Services and \$221,000 going to the Administrative Office of the Courts. The Analyst also recommends that the Drug Courts/Boards line item in the Department of Human Services be consolidated as a program under the Division of Substance Abuse and Mental Health.

10. Issue Brief - Continuation of FY 2006 One-time Funding

Mr. Headden explained this funding relates to the FY 2006 one-time General Funds of \$2 million for uninsured mental health patients at the local mental health centers in order to maintain the same level of support. The Analyst recommends that the Division of Substance Abuse and Mental Health receive a one-time General Fund appropriation of \$2 million in FY 2007.

11. Issue Brief - Adult Beds at the State Hospital

Ms. Headden said that the Utah State Hospital is requesting funding for 30 additional adult beds. The Geriatric Unit was closed down in August of 2005 so some of the savings from that closure is being netted against the total dollars they are requesting. She indicated there are four options for the additional bed funding: (1) to fund the full request; (2) to phase in 15 beds at a time over two years; (3) to explore the option of converting the adult wards to independent entities of 16 beds to capture Medicaid funding; and (4) to not fund the request. The Analyst recommends option two to phase in the funding and recommends an appropriation of \$950,000, with \$750,000 from General Funds, \$97,000 from dedicated credits and \$103,000 from federal Medicaid funds. The Analyst also recommends a supplemental appropriation of \$216,000 with \$179,300 from one-time General Funds, \$17,300 from dedicated credits and \$19,500 from federal Medicaid funds for FY 2006. The Analyst further recommends that the State Hospital receive permission from the Legislature before closing units in the future.

12. Issue Brief - Nursing Recruitment and Retention

Ms. Headden explained that the State Hospital has the same challenges as the Developmental Center in recruiting and retaining nursing staff for the same reasons: compensation package, high turnover rate, and the general nursing shortage. The Analyst recommends that the Subcommittee may want to consider prioritizing this request for FY 2007 of \$640,900 with \$474,300 in General Funds, \$38,400 in dedicated credits and \$128,200 in federal Medicaid funds. She also recommends the Subcommittee may want to prioritize a supplemental appropriation for FY 2006 of \$213,600, with \$158,100 from one-time General Funds, \$12,800 from dedicated credits and \$42,700 from federal Medicaid funds for the recruitment and retention of nurses.

13. Issue Brief - Medication Costs

Ms. Headden stated the hospital has experienced a significant increase in drug costs. The Analysts recommends that the Subcommittee may want to prioritize this request for funding of \$201,600 from General Funds, \$22,400 from dedicated credits and \$56,000 from Medicaid funds to cover the increased cost of medications at the Utah State Hospital.

14. Issue Brief - Utility Rate Increases

Ms. Headden said along with the increased cost of natural gas, the hospital is also experiencing an increase in electric and water costs over several years. The Analyst is recommending that the Utah State Hospital receive an appropriation of \$235,000 with \$169,200 from General Funds, \$18,800 from dedicated credits and \$47,000 from federal Medicaid funds for utility costs for FY 2007.

MOTION: Sen. Davis moved to adjourn. The motion passed unanimously.

Co-Chair Killpack adjourned the meeting at 5:00 p.m.

Minutes reported by Norda Shepard, Secretary.

Sen. Sheldon L. Killpack
Committee Co-Chair

Rep. Merlynn T. Newbold
Committee Co-Chair